
(2010) 08 RAJ CK 0082
In the Rajasthan High Court

Gajendra Kumar Yadav

APPELLANT

Vs

JVVNL and Others

RESPONDENT

Date of Decision : 25-08-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 420, 483, 486
Trade and Merchandise Marks Act, 1958 — Section 79

Citation : (2010) 08 RAJ CK 0082

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajay Rastogi, J.—Matter has come up on an application filed by petitioner seeking permission to place an order dt.13/02/2009 passed by learned trial Judge whereby charge sheet filed against him u/s 79 of Trade & Merchandise Marks Act, 1958 on record.

2. At joint request, matter has been heard finally at admission stage.

3. Petitioner was appointed as Junior Engineer-I (Electrical) as a Probationer Trainee but vide order dt.16/12/2008 (Ann.3), his services were terminated on the premise that there was a criminal case instituted against him which held his character to be doubtful and unsuitable for appointment.

4. Counsel for petitioner submits that initially FIR was registered against the petitioner for offences under Sections 420, 483, 486, IPC and Section 79 of Trade Merchandise Marks, Act, 1958 but after the challan was filed against him under Section 79 of the act, 1958 and after hearing the parties, petitioner stands discharged from the criminal charges - as a result whereof, criminal proceedings initiated against him stand dropped vide order dt.13/02/2009 -taking note whereof, the sole premise on which his services stood terminated vide order impugned dt.16/12/2008 does not hold good.

5. Counsel for respondents on the other hand submits that as per terms &

conditions of the letter of appointment dt.18/10/2007, if character & antecedents on being verified from Superintendent of Police is found to be doubtful or of unsatisfactory, services of a probationer trainee, could be terminated without there being any notice issued and once FIR was registered against petitioner of the offences (supra), no error was committed by respondents in passing the order terminating his service vide order dt.16/12/2008.

6. This Court would like to observe that while notices being issued vide order dt. 22/12/2008, operation of order impugned dt.16/12/2008 (Ann.3) was stayed - as a result whereof, petitioner is continuing in service.

7. Condition NO.19 of the order of appointment of petitioner was invoked by respondents while terminating his services vide order impugned, only on account of FIR being registered against petitioner but without awaiting for final outcome of criminal case being instituted. That apart, challan No.204/03 was filed u/s 79 of Trade Merchandise Marks Act, 1958 and petitioner was later on discharged and criminal proceedings were dropped by competent court of jurisdiction vide order dt.13/02/2009 (Ann.4). Taking note whereof, there was no impediment against petitioner which could be invoked by respondents in terminating his services. Even otherwise also, merely because FIR was registered, that would in no manner hold his antecedents of doubtful or of unsatisfactory character disentitling him to continue in service.

8. However, taking note of later developments having taken place - reference whereof has been made (supra), the order terminating services of petitioner impugned herein does not hold good.

9. Consequently, writ petition succeeds and is hereby allowed. Order dt.16/12/2008 (Ann.3) is hereby quashed and set aside. No order as to costs.